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EXAMINER

HO, THOMAS Y

ART UNIT PAPER NUMBER

3677

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/848,413
Filing Date: May 04, 2001
Appellant(s): QUIGLEY ET AL.

Michael D. Graham
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 22, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is deficient because on page 5, line 8, the first slot is reference number 14 in FIG. 4.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The appellant's statement that claims 1-10 and 12-20 is agreed with.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

Art Unit: 3677

6,230,457	BRAUTIGAM	5-2001
3,981,054	HULL ET AL.	9-1976

(10) Grounds of Rejection

Because claims 1-10 and 12-20 stand and fall together, and because claim 16 is the broadest independent claim that is representative of the invention, the rejection of claim 16 will be addressed. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dreifert US No. 5,370,428 in view of Brautigam US No. 6,230,457, and further in view of case law. This rejection is set forth in a prior Office Action, mailed on January 26, 2004. The rejection is based on the following findings:

1. Fig. 2 of the Dreifert document discloses the handle, pin, slot, and latch bar (Fig. 2, drawings).
2. Brautigam teaches the reversibility of components (Col. 5, lines 34-42).
3. Case law states "The reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950)."

(11) Response to Argument

Applicant argues that the rejection fails to disclose or teach inserting a handle pin mounted to a handle into a second slot on the latch bar, and thus fails to establish a prima facie case of obviousness. The Examiner disagrees. Dreifert (Fig. 2) discloses inserting a latch bar pin (Fig. 2, reference number 70) mounted to a latch bar (Fig. 2, reference number 21) into a second slot (Fig. 2, reference number 66) on the handle (Fig. 2, reference numbers 50 and 56).

Art Unit: 3677

The pin/slot arrangement in Dreifert is a reversal of the pin/slot arrangement claimed by Applicant. Case law has held that the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). Case law would teach the reversal of the pin/slot arrangement of Dreifert, to obtain a handle pin mounted to a handle, and a second slot on a latch bar. Furthermore, Brautigam also teaches the reversal of components. Brautigam teaches that a roller (pin) and keeper (slot) can be reversed (Col. 5, lines 34-42).

Applicant further argues that in the present invention, the need for a link is avoided; whereas the Dreifert reference requires a link, and so the rejection fails to establish a prima facie case of obviousness. The Examiner disagrees. The preamble of claim 16 recites the word "comprising". Because claim 16 is a "comprising" claim, the scope of the claim is not limited solely to the claimed elements. As long as the Dreifert reference at least discloses the claimed elements, the prima facie case for obviousness is met.

Applicant further argues that the Brautigam reference does not correct the deficiencies of the Dreifert document because the Brautigam document discloses the handle is rotatably attached to a link, and there is no disclosure of a handle that directly engages the tie bar via a pin. The Examiner disagrees. Firstly, the Dreifert document already discloses a handle (Fig. 2, reference numbers 50 and 56) that directly engages a tie bar (Fig. 2, reference number 21) via a pin (Fig. 2, reference number 70). Secondly, the language in claim 16 never recites that the handle directly engages the tie bar via a pin.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 3677

Respectfully submitted,



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PRIMARY EXAMINER

for:

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September 9, 2004

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